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No. 96-1470

IN THE

SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1996

QUALITY KING DISTRIBUTORS, INC.,

Petitioner,

v.

L'ANZA RESEARCH INTERNATIONAL, INC.,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MOTION FOR LEAVE TO FILE BRIEF *AMICI CURIAE* and BRIEF OF *AMICI CURIAE*, COSTCO COMPANIES, INC., NATIONAL ASSOCIATION OF CHAIN DRUG STORES, INTERNATIONAL MASS RETAIL ASSOCIATION, NATIONAL ASSOCIATION OF CATALOG SHOWROOM MERCHANDISERS, and THE FOOD MARKETING INSTITUTE, IN SUPPORT OF PETITIONER

PETER J. KADZIK
DICKSTEIN SHAPIRO
MORIN & OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037
(202) 775-4704
Counsel for
National Association of
Chain Drug Stores

MICHAEL D. SANDLER
(Counsel of Record)
FOSTER PEPPER
& SHEFELMAN
1111 Third Avenue
Seattle, Washington 98101
(206) 447-8942
Counsel for
Costco Companies, Inc.

– Additional Counsel Listed on Inside Cover –

Washington, D.C. • THIEL PRESS • (202) 328-3286

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FOR THE NINTH CIRCUIT

MOTION FOR LEAVE TO FILE BRIEF *AMICI CURIAE*

Costco Companies, Inc., National Association of Chain Drug Stores, International Mass Retail Association, National Association of Catalog Showroom Merchandisers, and the Food Marketing Institute respectfully move for leave to file the brief *amici curiae* submitted with this motion. *Amici* have received a written consent from counsel for petitioner. Respondent's counsel has declined to give a consent.

Amici seek to file their brief to make three points not developed in the petition. These points are:

ROBERT J. VERDISCO
MORRISON G. CAIN
INTERNATIONAL MASS
RETAIL ASSOCIATION
1700 N. Moore Street
Arlington, VA 22209
(703) 841-2300

Counsel for International Mass Retail Association

RICHARD KELLY
KELLY LUCAS
MCHEN & PACIFICO
186 Birch Hill Road
Locust Valley, NY 11560
(516) 676-6262

Counsel for National Association of Catalog Showroom Merchandisers

HARRY SULLIVAN
GEORGE GREEN
FOOD MARKETING
INSTITUTE
800 Connecticut Ave., N.W.
Washington, D.C. 20006
(202) 249-8259

Counsel for Food Marketing Institute

1. There is a system of international treaties that affects the scope of any claimed rights of the U.S. copyright owner in this case, and that bears on the interpretation of sections 602(a), 106 and 109(a) of the Copyright Act;

2. The Ninth Circuit's "full value" prerequisite for applying the first sale doctrine of section 109(a) of the Copyright Act is a judicial invention that contravenes this Court's pronouncements on not expanding statutory monopolies under the copyright and patent laws; and

3. The Ninth Circuit's decision affects not only petitioner, but also *amici* and the thousands of retail establishments operated by members of the *amici* associations. In particular, the decisions will affect (i) the cost of making purchases of genuine copyrighted products in secondary markets, (ii) the supply and price of such products, and (iii) the markets in which retailers may dispose of their excess inventories of copyrighted products. These effects demonstrate a need for a nationwide rule.

Since most of the *amici* and their members have transactions or some presence in the commercially important territories covered by the Ninth Circuit, *amici* and their members will be immediately affected by the decision to grant or deny certiorari. Although it is appreciated that this motion is "not favored" (Rule 37.2(b)), *amici* respectfully suggest that their brief will present to "the Court relevant matter not already brought to its attention by the parties . . . ." (Rule 37.1).

For the above reasons, we ask that this motion be granted.

Respectfully submitted,

PETER J. KADZIK
DICKSTEIN, SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037
(202) 775-4704
Counsel for National Association of Chain Drug Stores

MICHAEL D. SANDLER
(Counsel of Record)
FOSTER PEPPER & SHEFELMAN
1111 Third Avenue
Suite 3400
Seattle, Washington 98101
(206) 447-8942
Counsel for Costco Companies, Inc.

RICHARD KELLY
KELLY LUCAS MOHEN & PACIFICO
186 Birch Hill Road
Locust Valley, NY 11560
(516) 676-6262
Counsel for National Association of Catalog Showroom Merchandisers

ROBERT J. VERDISCO
MORRISON G. CAIN
INTERNATIONAL MASS RETAIL ASSOCIATION
1700 N. Moore Street
Arlington, VA 22209
(703) 841-2300
Counsel for International Mass Retail Association

HARRY SULLIVAN
GEORGE GREEN
FOOD MARKETING INSTITUTE
800 Connecticut Ave., N.W.
Washington, D.C. 20006
(202) 249-8259
Counsel for Food Marketing Institute

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BRIEF OF *AMICI CURIAE*, COSTCO COMPANIES, INC., NATIONAL ASSOCIATION OF CHAIN DRUG STORES, INTERNATIONAL MASS RETAIL ASSOCIATION, NATIONAL ASSOCIATION OF CATALOG SHOWROOM MERCHANDISERS, and THE FOOD MARKETING INSTITUTE, IN SUPPORT OF PETITIONER

Costco Companies, Inc., National Association of Chain Drug Stores, International Mass Retail Association, National Association of Catalog Showroom Merchandisers, and the Food Marketing Institute are submitting this joint brief *amici curiae* in support of petitioner.

INTEREST OF *AMICI CURIAE*

Costco Companies, Inc. ("Costco")[1] through its subsidiaries operate "Costco Wholesale" and "Price Club" membership warehouse clubs across the United States and Canada and in certain other countries. Costco's annual sales of approximately $20 billion make it the seventh largest retailer in the United States. About 20,000,000 U.S. cardholders shop at Costco and Price Club warehouse locations for a wide range of merchandise that includes imported goods with copyrighted labels or features. Since 1994, Costco has been sued four times, solely in the Ninth Circuit, on claims that its sales of genuine goods violate Section 602(a) of the Copyright Act.[2] One of those lawsuits was brought by respondent.

National Association of Chain Drug Stores ("NACDS") has approximately 130 members that operate 25,419 retail chain drug store outlets throughout the United States. Its members generate over $110 billion in sales. A list of its members is in the Appendix, *infra* at 1a.

International Mass Retail Association ("IMRA") represents 180 members companies, including discount department stores, home centers, category-dominant or specialty discounters, catalogue showrooms, dollar stores, warehouse clubs, deep discount drugstores and off-price stores. Collectively, IMRA retail members operate more than 70,000 stores in the U.S. and abroad and employ

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[1] Until February 4, 1997 Costco was called Price/Costco, Inc. Its shares are publicly traded.

[2] *Disenos Artisticos E Industriales S.A. v. Costco Wholesale Corporation*, 97 F.3d 377 (9th Cir. 1996); *Swarovski America Ltd. v. Price/Costco Inc. et al.* and *Swarovski America Ltd. v. Costco Wholesale Corp.*, C.D. Cal. Nos. 93-6365 SVW, 93-7403 SVW (Judgment Dec. 21, 1994); *L'anza Research Int'l, Inc. v. Costco Wholesale Corp.*, C.D. Cal. No. 95-0244 TJH (settled 1995).

over two million Americans. IMRA retail members cumulatively represent over $380 billion in annual sales.

National Association of Catalog Showroom Merchandisers ("NACSM") is an association of catalog showroom merchandisers, whose members use catalogs showing brand name products as a principal medium of advertising. It has several hundred members; its member discount retail stores account for approximately $5 billion in annual sales.

The Food Marketing Institute ("FMI") is a nonprofit association conducting programs in research, education, industry relations and public affairs on behalf of its 1,500 members including their subsidiaries – food retailers and wholesalers and their customers in the United States and around the world. FMI's domestic member companies operate approximately 21,000 retail food stores with a combined annual sales volume of $220 billion – more than half of all grocery store sales in the United States. FMI's retail membership is composed of large multi-store chains, small regional firms and independent supermarkets.

Each of the *amici* associations advocates the freedom of its members to purchase and resell genuine brand name products, to make available any such product at competitive prices as determined by each individual retailer, and thereby to compete freely with other forms of retailing. The Ninth Circuit's decision in this case presents a substantial threat to those freedoms. If the decision goes unreviewed, Costco and the retailer members of the *amici* associations will face significant costs and impediments in purchasing and reselling genuine goods having a copyrighted label or feature, affecting substantial commerce. As a result, consumer access to the benefits of open competition will be curtailed.

SUMMARY OF ARGUMENT

In a decision that directly conflicts with a prior ruling of the Third Circuit, the Ninth Circuit here held that a U.S. copyright owner can distribute a product with a copyrighted label and, if the same article is later imported and resold by a subsequent purchaser, the copyright owner can sue for violation of its distribution right. The court of appeals held that section 602(a) of the Copyright Act subjects merchants to such liability after a first sale by the copyright owner, despite the first sale doctrine in section 109(a) of the Copyright Act.

A. The principal basis for the Ninth Circuit's decision was a view that section 602(a) would become "meaningless" if it were made subject to the first sale doctrine. As shown by the Third Circuit's conflicting decision in *Sebastian Intn'l Inc. v. Consumer Contacts (PTY) Ltd.*, 847 F.2d 1093 (3d Cir. 1988), however, section 602(a) can coexist with the first sale doctrine by distinguishing between (1) a prior distribution by the U.S. copyright owner itself and (2) one by an assignee or licensee of foreign rights. As the petition points out, this distinction is supported by the language of section 602(a) (which states a type of infringement of a U.S. copyright owner's distribution right), section 106 (which sets forth that distribution right), and section 109(a) (which ends the distribution right upon a first sale). Pet. at 7-12.

This interplay of sections 602(a), 106 and 109(a) is best understood when one considers how a U.S. copyright owner may exploit its worldwide copyright rights. When the U.S. copyright owner itself keeps the entire copyright and first distributes a particular copy by a sale, it has exercised its right of distribution. There is

no remaining right to be infringed by a subsequent importation of the type mentioned in section 602(a).

By contrast, a U.S. copyright owner may choose to subdivide its worldwide rights, licensing (or assigning) some of them to others. If this occurs and a foreign licensee has made the first distribution of a copyrighted item, then, when the item is imported without authority of the U.S. copyright owner, the U.S. owner's distribution right has yet to be exercised. Section 602(a) provides that this distribution right is infringed by an importation without the copyright owner's authority.

The Third Circuit's decision in *Sebastian* correctly drew this distinction between a first sale by a U.S. copyright owner and one by a foreign licensee; the Ninth Circuit's decision failed to discern the difference.

B. The second basis for the Ninth Circuit's decision is even more dubious. The Ninth Circuit believed that the first sale doctrine of section 109(a) never applies unless, upstream, the U.S. copyright owner has received "full value" on the first sale of each copy.[3] Pet. at A11-A15. The court of appeals purported to find legislative support for its new rule in testimony by industry witnesses at congressional hearings – not from any statement by a Member of Congress or in a Committee Report. Pet. at A12-A13. It also cited other authorities which have, as their sole jurisprudential foundation, *dicta* from a case decided under an earlier statute. In these respects, the decision is a judicially invented rule which contravenes this Court's precept that statutory patent and copyright monopolies can be expanded only by Congress.

---

[3]The Ninth Circuit also assumed that "full value" is not received when the copyright owner voluntarily makes a sale abroad at a price lower than the U.S. selling price. Pet. at A14.

C. Based on this questionable lineage, the Ninth Circuit's decision now requires retailers and distributors to undertake new types of investigation from which merchants have been previously insulated by the "good-faith purchaser" rule. To guard against suit in the Ninth Circuit, merchants must now determine not only whether a product with a copyright was produced by the U.S. copyright owner, but also

- Whether some upstream purchaser imported it, and
- Whether the compensation voluntarily accepted by the copyright owner constituted the product's "full value."

The decision has had, and will have, a broad effect on the national marketplace. Jobbers and independent distributors will face impediments in selling products with copyrighted labels, which will reduce secondary markets for retailers attempting to sell excess inventories. National retailers and distributors will be sued in the Ninth Circuit for commercial transactions which are lawful in the rest of the nation. This disparity in the treatment of nationwide conduct ought not go unreviewed, particularly since it is "[t]he purpose of Congress to have national uniformity in patent and copyright laws. . . ." *Sears Roebuck & Co. v. Stiffel Co.*, 376 U.S. 225, 231 n.7 (1964).

ARGUMENT

DEPRIVING MERCHANTS OF THE FIRST SALE DOCTRINE ON IMPORTED GOODS PREVIOUSLY SOLD BY THE U.S. COPYRIGHT OWNER WAS NOT INTENDED BY CONGRESS, AND CALLS FOR A NATIONWIDE RULE.

L'anza Research International, Inc. created a design, registered a copyright for it, and placed it on the labels of its hair care products. L'anza sold the goods in question to its United Kingdom distributor, and the goods were exported from the United States. A subsequent purchaser then shipped the goods back to the United States and sold them to petitioner, Quality King Distributors, Inc. Quality King resold the products to others, and was sued by L'anza for violating section 602(a) of the Copyright Act.

L'anza's claim depends on the relationship among three provisions of the Copyright Act, sections 106, 109(a) and 602(a). Section 106 sets out the exclusive rights under a copyright, including a right of distribution under section 106(3). Section 602(a) purports to define a component of the section 106 distribution right. It provides that importation of copyrighted material "without authority of the owner of copyright" is an infringement of the copyright owner's "exclusive right to distribute copies or phonorecords under section 106. . . ." 17 U.S.C. §602(a).

Section 109(a), however, makes the distribution right subject to the first sale doctrine. It states that "notwithstanding the provisions of section 106(3)," owners of a particular copy may "without the authority of the copyright owner . . . sell or otherwise dispose of the possession of that copy. . . ." 17 U.S.C. §109(a). Moreover, under section 106, the exclusive rights of a copyright owner are

"[s]ubject to sections 107 through 120," which of course encompass section 109(a).

The Ninth Circuit ruled (1) "that §602(a) would be rendered meaningless" if the first sale doctrine of section 109(a) were applied to claims under section 602(a) (Pet at A11), and (2) that, in any case, the first sale doctrine does not apply to L'anza because L'anza did not receive "full value" when it made the first sale (Pet. at A11-A15).

Petitioner correctly notes the direct conflict between the Third and Ninth Circuits on both of these holdings. Pet. at 7-17. *Amici* focus instead on (A) the "meaning" that should be ascribed to sections 602(a), 106 and 109(a) in light of the international context of every copyright, (B) the incompatibility between the Ninth Circuit's "full value" requirement and this Court's pronouncements against judicial expansion of statutory monopolies, and (C) how national commerce participated in by *amici*, including *amici* associations' members, will be impeded if a nationwide rule does not replace the Ninth Circuit's divergent construction.

A. The International Context of Sections 602(a), 106 and 109(a).

The meaning of section 602(a), and its relationship to sections 106 and 109(a), is best understood when one reviews how a copyright is created and how a copyright owner's rights in various countries may be subdivided.

Here, L'anza created an original graphic design for its product labels. From the moment of creation, L'anza had a copyright both in the United States and in most other nations. This occurred both under section 104 of the Copyright Act, 17 U.S.C. §104, and under the multi-

lateral treaties implemented by the Act. In particular, the Berne Convention and the Universal Copyright Convention give an author in any convention country automatic recognition of, and protection for, his or her works upon their creation. Thus, Article 5 of the Berne Convention provides in part:

> (1) Authors shall enjoy, in respect of works for which they are protected under this Convention, in countries of the Union other than the country of origin, the rights which their respective laws do now or may hereafter grant to their nationals, as well as the rights specially granted by this Convention.
>
> (2) The enjoyment and the exercise of these rights shall not be subject to any formality; such enjoyment and such exercise shall be independent of the existence of protection in the country of origin of the work. . . .[4]

This system of treaty rights gave L'anza instantaneous recognition of its copyright virtually worldwide. Although the protections may vary country by country, L'anza fully controlled all rights embodied in its copyright.

A copyright owner may follow any of several paths to exploit its copyright. It may keep for itself, as L'anza has done in this case, the entire bundle of worldwide rights that make up the copyright. If it follows this path, one copyright owner will necessarily control the first distribution of each genuine copy; it will set the price

---

[4] Berne Convention for the Protection of Literary and Artistic Works (Paris 1971), S. Treaty Doc. No. 27, 99th Cong. 2d Sess., 40 (1986). Similar provisions appear in Article II of the Universal Copyright Convention, 25 UST 1341 (1971). Section 104 of the Copyright Act implements these international obligations by granting protection to works created or published in countries adhering to the Berne Convention and Universal Copyright Convention. *See* 17 U.S.C. §104.

and terms of the first sale. Beyond whatever rights the copyright owner lawfully could negotiate for itself in a distribution contract, there would seem little reason why Congress would have conferred still additional powers over copies the copyright owner has already distributed. Nothing in the interplay of sections 106(3), 109(a) and 602(a) reveals such an intent.

A second path L'anza could have followed would have been to subdivide its worldwide copyright, by assigning (or licensing) to others certain foreign rights to reproduce and distribute copies of the L'anza design. Under this approach, the U.S. owner of copyright[5] will not necessarily control the first distribution of copies; on foreign sales, the assignee or licensee will have set the price and terms of the first sale. In this situation, L'anza might validly complain if copies have been imported and L'anza has not had any benefit from the distribution of those copies.

Simply put, under the first path, where the U.S. owner of a copyright itself controls distribution of a particular copy, its distribution right is exercised upon the first sale. In case of a subsequent importation of the same copy, section 602(a) no longer can give rise to "an infringement of the exclusive right to distribute copies. . . ." 17 U.S.C. §602(a). The exclusive right has already been exercised for that particular copy, the U.S. copyright owner has

[5] "Owner of copyright" is a term that means the owner of the entire copyright. It is the term used in 17 U.S.C. §§106 and 602. An exclusive licensee is sometimes referred to as a "copyright owner," but it is not the owner of copyright; rather, "the licensor remains the owner of the copyright, and the licensee is the owner only of the exclusive rights that are the subject of [the] license. . . ." 3 M. Nimmer & D. Nimmer, *Nimmer on Copyright* §10.02 [C] [2] at 10-34 (1996).

set and received its price, and there is no remaining distribution right to be infringed when the same goods are imported. Under the second path, however, if the first distribution has been made by a foreign licensee, the U.S. owner has neither controlled the sale nor set the price; its distribution right remains intact and is infringed by an unauthorized importation.

In this manner, the Third Circuit (unlike the Ninth) found meaning in the text of the statute by distinguishing between circumstances where the imported product had been previously distributed by the U.S. copyright owner itself and where it had been previously distributed by a licensee or assignee of foreign rights:

> We do not confront a license agreement or copies produced in a foreign country under that agreement by someone other than the owner; instead, this case centers on actual copies of labels printed in this country by the copyright owner. Sebastian produced and sold the same copies which it now seeks to control.

Sebastian, 847 F.2d at 1098 (Pet. at D11). In ignoring this distinction, the Ninth Circuit's decision does not merely present a conflict between the circuits; it also disregards the international context of the statute and the language connecting section 602(a) (which states a type of infringement of the distribution right), section 106 (which sets out the distribution right), and section 109(a) (which ends the distribution right upon a first sale).

B. The "Full Value" Rule Contravenes This Court's Decisions Against Expanding Statutory Monopolies.

The second of the two reasons given by the Ninth Circuit for its decision is that L'anza did not receive "full value" on its previous export sales, which were at prices below the normal U.S. selling price. In short, L'anza's reward on the first sale, which it voluntarily accepted, was not large enough. Yet, as this Court has observed, copyright privileges are intended to encourage creativity; they are "neither unlimited nor primarily designed to provide a special private benefit." *Sony Corp. of America v. Universal Studios, Inc.*, 464 U.S. 417, 429 (1984).

As the petition points out, the Ninth Circuit simply relied on statements of industry witnesses (not Members of Congress) to support its unique reading. *See* Pet. 14 n.4. Nothing in the text of the statute or in its legislative history supports the proposition that the first sale doctrine does not apply until and unless the copyright owner reaps "full value" on the first distribution of a copy. No such legislative foundation exists.

The "full value" prerequisite to applying section 109(a) also is not based on any longstanding jurisprudence impliedly adopted by Congress, but instead derives from *dictum* in a decision under the previous Copyright Act of 1909, *Platt & Munk Co. v. Republic Graphics, Inc.*, 315 F.2d 847, 854 (2d Cir. 1963). Pet. at 16; *id.* at A11. Even that decision did not refer to "full value," but only whether a copyright owner "has received his reward for the use of the article. . . ." *Platt & Munk*, 315 F.2d at 854. Nothing in that case says that the reward must be "full" or at its zenith.

The "full value" rule is plainly a judicially invented expansion of the scope of the statutory monopoly created by the Copyright Act. As such, it contravenes this Court's precept that statutory monopolies under the patent and copyright laws should be "strictly construed." *Sears Roebuck & Co.*, 376 U.S. at 230 (patent). A court may not "enlarge the scope of respondents' statutory monopolies . . . beyond the limits of the grants authorized by Congress." *Sony*, 464 U.S. at 421 (copyright). Normally, courts must construe any statutory ambiguity against enlarging patent or copyright monopolies. *See, Deepsouth Packing Co. v. Laitram Corp.*, 406 U.S. 518, 530-31 (1972). The "sign of how far Congress has chosen to go can come only from Congress." *Id.* at 530.

C. Commercial Need For A Nationwide Rule.

In normal circumstances, *amici*, including *amici* associations' members, may rely on the "good-faith purchaser for value" rule when they acquire merchandise for resale. The good-faith purchaser rule protects the free transferability of all genuine goods. *See* U.C.C. §2-403. It "allows people safely to engage in the purchase and sale of goods without conducting a costly investigation of the conduct and rights of all previous predecessors in the chain of distribution." *Johnson & Johnson Prod. v. Dal Int'l Trading Co.*, 798 F.2d 100, 104 (3d Cir. 1986) (retailer not liable for selling imported grey market goods that others had fraudulently procured).

The Ninth Circuit's decision punches two holes in the good-faith purchaser shield, and subjects merchants to disparate treatment across the country. First, in the Third Circuit (but not in the Ninth), retailers may freely purchase and resell goods with a copyrighted feature or

label, if the copyright owner first sold the goods. In the Ninth Circuit, however, merchants will be found to have violated the Copyright Act if it turns out that the goods, once distributed by the U.S. copyright owner, were subsequently imported without the same copyright owner's permission.

Second, the court of appeals' "full value" rule requires any national retailer to conduct an investigation before buying a product from a jobber or independent distributor. If the product bears a copyrighted design on its label, the Ninth Circuit tells us that we must ask distributors what price the copyright owner received on a transaction somewhere upstream – and how that price compares with the potential price the copyright owner might have charged. And if unwilling or unable to make a complete and potentially costly investigation, retailers may be subjected in the Ninth Circuit to the Copyright Act's "potent arsenal of remedies." *Sony*, 464 U.S. at 433.

The eventual effect on commerce is evident: there will be fewer (or more costly) purchases of copyrighted goods from independent distributors. Retailers will also find it more difficult to turn to jobbers and distributors to buy up their excess inventories at the end of a season, or when retailers wish to make room for new merchandise.

This decision, therefore, affects supply conditions in secondary markets for goods. Whenver a product bears a copyrighted element on its label, the decision creates strong incentives to deal directly with the copyright owner and to eschew the same products when offered by trading companies, jobbers or distributors like petitioner. Inevitably, there is an effect on competition and price: with less intra-brand competition at the wholesale level, wholesale prices must rise.

The Ninth Circuit's approach also creates conflicting rules on the transferability of identical copyrighted products that originate from the copyright owner itself. Suppose two identical bottles of the same product appear side by side on a retailer's shelf, each with a copyrighted label and each manufactured and previously sold by the U.S. copyright owner. If one of the bottles had been previously exported but the second bottle had only been sold domestically, the retailer can be sued in the Ninth Circuit for distributing the first bottle – without any physical means of distinguishing it from the second bottle.

This Court has recognized a "purpose of Congress to have national uniformity in patent and copyright laws. . . ." *Sears Roebuck & Co.*, 376 U.S. at 23a n.7. Here, the lack of uniformity creates considerably uncertainty. Merchandise buying strategies are difficult to formulate and implement without the commercial certainty of a nationwide rule. Until there is a uniform rule, national retailers that have some presence or business on the West Coast will also face a greater incidence of litigation (and significant liability exposure) in the Ninth Circuit.

In sum, the Ninth Circuit's decision does not reflect an explicit choice made by Congress in the text of the Copyright Act. It is instead a divergent rule that is judicially invented. It affects commerce nationwide and should not go unreviewed.

CONCLUSION

For the above reasons as well as those stated in the petition, the Court should grant the petition.

Respectfully submitted,

PETER J. KADZIK
DICKSTEIN, SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037
(202) 775-4704
Counsel for National Association of Chain Drug Stores

RICHARD KELLY
KELLY LUCAS MOHEN & PACIFICO
186 Birch Hill Road
Locust Valley, NY 11560
(516) 676-6262
Counsel for National Association of Catalog Showroom Merchandisers

MICHAEL D. SANDLER
(Counsel of Record)
FOSTER PEPPER & SHEFELMAN
1111 Third Avenue
Suite 3400
Seattle, Washington 98101
(206) 447-8942
Counsel for Costco Companies, Inc.

ROBERT J. VERDISCO
MORRISON G. CAIN
INTERNATIONAL MASS RETAIL ASSOCIATION
1700 N. Moore Street
Arlington, VA 22209
(703) 841-2300
Counsel for International Mass Retail Association

HARRY SULLIVAN
GEORGE GREEN
FOOD MARKETING INSTITUTE
800 Connecticut Ave., N.W.
Washington, D.C. 20006
(202) 249-8259
Counsel for Food Marketing Institute

APPENDIX

MEMBERS OF NATIONAL ASSOCIATION OF CHAIN DRUG STORES

ABC Stores Div. MNS Ltd.
Albertson's, Inc.
American Drug Stores, Inc.
Andorra Neighborhood Pharmacies
Arbor Drugs, Inc.
Ark Drugs
The Arrow Corporation/Arrow Prescription Centers
Arthur Drug Stores Inc.
The Bartell Drug Company
Brooks Pharmacy
Buffalo Pharmacies
CRX Pharmacy
CVS Pharmacy, Inc.
Carr Gottstein Foods Company
City Drug Stores Inc.
City Drugs
Cobom's, Incorporated
Concord Drugs, Inc.
Costco Wholesale
D & W Food Centers, Inc.
Davidson Drugs, Inc.
Discount Drug Mart, Inc.
Downeast Pharmacy, Inc.
Drug Emporium, Inc.
Drug Fair Stores of NJ
Drug World Pharmacies
Drugtown Drugstores
Duane Reade
Eckerd Corporation

Emm-Dee Drug Corporation
Farmacias El Amal
Fedco Professional Pharmacies
Fedco, Inc.
Fred's Inc.
FreeCorp Peabody dba Freedom Drug
Fruth Pharmacy
Genovese Drug Stores, Inc.
Giant Eagle, Inc.
Giant Food Inc., Pharmacy Div. Giant Discount Drug
Grand Union Company
The Great Atlantic & Pacific Tea Co., Inc.
(A&P Supermarket)
Gresham Drugs, Inc.
H-E-B Foods/Drugs Inc.
Hannaford Bros., Co.
Happy Harry's Discount Drugs
Harco Drug, Inc.
Harmon Discount Stores
Hartig Drug Stores
Health Care Professionals
Hi-School Pharmacy, Inc.
Horton and Converse Pharmacies
K&B Services, Incorporated
Keitsch Bros. Inc.
Keystone - Medicine Chest Pharmacies
Kinney Drugs, Inc.
Kmart Corporation
Knight Drugs Inc.
Kopp Drug, Inc.
The Kroger Co.
Lewis Drugs, Inc.
Longs Drug Stores
Marc Glassman Inc.
Marah Drug Stores, Inc.

May's Drug Stores, Inc.
McKay Drugs
Med-X Corporation
Medic Drug
Medicap Pharmacies, Inc.
Medicine Shoppe International, Inc.
Meijer, Inc.
Monahan Pharmacy Inc.
Navarro Discount Pharmacies
NeighborCare Pharmacies
Nelson's Drug Stores
Nortex Drug Distributors Inc.
dba Drug Emporium
Osborn Drugs, Inc.
Owl Drug Stores Inc.
Parkway Drugs
Pathmark Stores, Inc.
Pelton's Drug Stores
The Penn Traffic Company
Phar-Mor, Inc.
Pharmhouse Corp.
Price-Less Drug Stores, Inc.
Publix Super Markets, Inc.
Quick Chek Food & Pharmacy
Randalls Food & Drugs, Inc.
Retired Persons Services, Inc.
Revco D.S., Inc.
Ricky's
Rite Aid Corporation
Ritzman Pharmacies, Inc.
Rock Bottom Stores, Inc.
Rx Plus
RxD Pharmacies Inc.
Safeway Inc.
Sav-Mor Drug Stores

Sav-On Drugs
Savco Drugs, Inc.
Save Mart Supermarkets
Seaway Food Town, Inc.
Service Discount Food & Drugs Inc.
Shaw's Supermarkets
Shelly's Pharmacy, Inc.
Shopko Stores, Inc.
Smith's Food and Drug Centers
Snyder's Drug Stores, Inc.
Star Markets Company, Inc.
The Stop & Shop Supermarket Company
Super D Drugs Inc.
Super Save Drugs, Inc./Owl Pharmacies
SUPERVALU Pharmacies, Inc.
Target Stores, A div. of Dayton Hudson Corp.
Thriftway Drugs
Thrifty White Stores
TOPS MARKETS, INC.
USA Drug
Valco Drug Stores
The Vons Companies, Inc.
Wakefern Food Corp./ShopRite
Wal-Mart Stores, Inc.
Walgreen Co.
Weatherwax Drug Stores
L.F. Widmann, Inc.